



February 16, 2016

Will Maguire  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco CA 94102

Dear Mr. Maguire,

LEAN Energy US (LEAN) herein responds to Energy Division's recent workshop announcement in A.14-05-024, which will explore the exit fee imposed on customers of community choice aggregation (CCA) programs, referred to as the "PCIA." LEAN is a 501(c)(3) nonprofit incorporated in the State of California to support the development of viable community choice aggregation (CCA) programs in California and nationwide. LEAN's interest in the March 8 workshop and this proceeding is related to its mission to support California policy and law with regard to CCA, and to assure that the PCIA is fair and calculated according to Commission rules and consistent with California law.

LEAN's participation in this proceeding will focus on the interests of those California jurisdictions that plan to launch CCA programs and those that should have the option do so at a later date. LEAN generally concurs in the comments submitted by the operating CCAs in response to the workshop notice as well as the comments of communities in the process of developing CCA programs but does not repeat them here.

LEAN views the workshop as an opportunity to understand the underpinnings of the PCIA, explore procedural options for an in-depth investigation and develop creative ways to balance competing interests.

**1. Please indicate your understanding of how the PCIA is calculated, identifying, in as much details as possible, each input to that calculation.**

LEAN understands that the PCIA includes costs related to certain energy supply contracts and that the calculation depends upon forecast market costs pursuant to Commission Resolution E-4475. On the basis of the review process conducted in A.15-06-001, where PG&E proposed doubling the PCIA, it appears the Commission has previously assumed that utility calculations and the management of their supply portfolios are reasonable. We feel that the burden of

proof is on the utilities and that the utilities are obligated to mitigate costs that are passed on to CCA customers. Our question is whether PG&E has done all it can to reasonably mitigate costs and we support the daylighting of the underlying assumptions within those calculations. LEAN looks forward to the responses of the utilities to this question.

**2. Do you believe the current PCIA methodology should be changed? If so, how and why? Please be as specific as possible.**

As a threshold matter, LEAN understands that California law requires that utility bundled customers be indifferent to the effects of CCA departing load from the standpoint of stranded energy supply costs. LEAN does not anticipate that the parties will debate the intent of the law, although its application may be subject to interpretation; for example, with regard to how “indifference” is calculated, the terms of and accurate reflection of underlying contracts included in the calculation, the utilities’ responsibility to mitigate costs, and the actual value of any cost recovery in terms of how those recoveries are “credited” within the PCIA calculation.

In decisions implementing AB 117, the Commission adopted principles and rules regarding the PCIA. Those decisions state the following:

*The PCIA “should, to the extent possible, balance...: accuracy, equity among different generations of CCAs, administrative simplicity, and certainty for CCAs and the utilities. We also anticipate that each CCA’s CRS liability would terminate at some point.” D.04-12-046 at 27.*

*“The objective of AB 117 in requiring CCAs to pay a CRS [PCIA] is to protect the utilities and their bundled utility customers from paying for the liabilities incurred on behalf of CCA customers. Our complementary objective is to minimize the CRS (and all utilities liabilities that are not required) and promote good resource planning by the utilities.” D.04-12-046 at 29.*

*The PCIA “should not include costs that may have been avoidable or are not otherwise attributable to the CCA’s customers.” D.04-12-046 at 65.*

*“(I)t is our expectation that there should be little if any stranded costs.” D.04-12-048 at 60.*

LEAN believes all three California utilities should be held accountable for each of these rules and principles, and LEAN believes PG&E has either ignored them or failed to provide publicly available evidence that it has fully complied with them. PG&E’s PCIA is not designed to be administratively simple, to promote certainty for CCA customers, or to sunset. It is unclear whether PG&E has included only those costs that are unavoidable and PG&E’s “stranded costs” appear to have increased since MCE began its operation almost six years ago, even with the correction that occurred in 2012.

At a minimum, LEAN proposes the Commission require each utility to provide a clear and transparent accounting of every input to the PCIA. As importantly, the Commission must assure that each utility is managing its supply portfolio in ways that mitigate the cost impacts of CCA departing load. That might mean, for example, better planning and coordination with

communities planning CCA programs, turning back supplies that are not “take or pay,” renegotiating supply contracts, and taking advantage of regulatory “out clauses.” The utilities’ first duty should be to protect customers, whether bundled or CCA, not to protect suppliers or their own competitive positions. The utilities should not be permitted to include in rates the costs of supplies purchased on behalf of CCA customers after those customers have taken service from the CCA.

In response to the Energy Division’s workshop notice, the operating CCAs have submitted joint comments that provide many thoughtful proposals on this issue and LEAN generally supports them. However, LEAN does not know at this time whether the proposals of the operating CCAs are exhaustive or which ones are most appropriate for communities that may wish to develop CCA programs in the coming years. LEAN understands the workshop provides an opportunity to understand the current PCIA methodology and the calculation’s inputs so that a full range of options can be explored going forward.

**3. How should the CPUC address the potential departure from bundled service of a very large load, such as the City of San Diego or County of Los Angeles? Would transferring contractual responsibility from an IOU to a CCA be an option?**

LEAN believes this is an important question for cities like San Diego and Los Angeles, where CCA departing load could have a dramatic impact on the serving utilities’ supply cost obligations. As a threshold matter, the Commission does not have authority to require a CCA to assume the contractual liabilities of a regulated utility, although the CCA and the utility may wish to voluntarily negotiate some type of assignment and the Commission may have a role in supporting such efforts.

In general, LEAN believes that the CPUC should not be issuing orders regarding the transfer of contractual responsibility but that it should be a voluntary option to be negotiated between the CCA and the utility. We further believe this could become an unnecessary distraction from reforming the PCIA which is the essential and central task contemplated in this workshop. A Commission investigation of the PCIA and the utilities’ management of their supply portfolios is a major undertaking and one that should be resolved as soon as possible. LEAN believes that if the PCIA is properly specified and calculated, and the utilities are managing their supply portfolios to mitigate the impacts of CCA departing load, issues related to individual CCA circumstances will be easier to manage and present fewer challenges to CCAs or the utilities going forward.

**4. Should Direct Access (DA) customers and Community Choice Aggregator (CCA) customers be treated differently vis-à-vis the PCIA? If so, why and how?**

LEAN does not have an opinion with regard to how DA customers should be treated. CCA customers are not directly affected by DA customer exit fees. LEAN does not believe this is the appropriate forum to explore this issue because addressing it would effectively require a

detailed policy and technical review of two complex and arguably unrelated issues. And again, it has the possibility of distracting from the central issue of CCA-related PCIA calculations.

**5. Can transparency regarding the calculation of the PCIA be increased while protecting valid interests in keeping certain information confidential?**

D.15-12-022 doubled PG&E's PCIA without any justification or analysis in the Commission Decision regarding the appropriateness and accuracy of PG&E's calculation or the inputs to it. The Commission rejected LEAN's proposal that the Commission adopt a balancing account approach to mitigate the impacts of PG&E's rate increase while the Commission investigated whether PG&E's PCIA was reasonable and consistent with Commission rules and the law. The Commission's willingness to adopt a large and highly controversial rate increase without third-party technical review or transparency is especially troubling because PG&E has an incentive to set a high PCIA rate in order to stifle competition from CCAs. The Commission must hold PG&E and other utilities accountable. The only way to do that is to have utility rate calculations and their inputs be fully transparent and regularly reviewed/audited for accuracy and consistency with clearly articulated rules.

LEAN understands that there may be valid reasons to maintain some information as confidential. However, it should be the burden of the utility – not the parties – to make that case rather than assuming utility information is confidential, which appears to be the current protocol. In addition, the utilities should be required to disclose all relevant information to any party signing a nondisclosure agreement and to any independent party reviewing or auditing utility PCIA calculations.

With regard to procedural steps, LEAN asks the Commission consider the following principles to guide the workshop:

- The workshop should be considered a forum to share ideas and scope issues related to the PCIA but is not a substitute for a formal inquiry;
- The Commission should initiate an audit of PG&E's PCIA as soon as possible;
- The Commission should immediately initiate a formal proceeding to investigate the PCIA calculation and inputs, as well as the ways the utilities can and should manage their supply portfolios to minimize stranded costs related to CCA departing load;
- The Commission should clarify that the burden of proof is on the utilities, not the parties, to demonstrate the reasonableness of their PCIA rates and the management of their supply portfolios;
- The Commission's review of PCIA issues should cover all three energy utilities because the PCIA for all three will affect the viability of CCA programs throughout the state;
- The parties should have an opportunity to address the scope of the formal proceeding in a prehearing conference statement or workshop statement.

LEAN is grateful for the opportunity to present its initial comments on issues relating to the PCIA and appreciates the Commission's willingness to investigate these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Marshall". The signature is fluid and cursive, with the first name "Shawn" being more prominent than the last name "Marshall".

Shawn Marshall  
Executive Director, LEAN Energy US

Cc: LEAN Board of Directors